

What is Estate Recovery?



The state recovers funds from a recipient's estate for Medicaid expenses paid after age 55, provided that there is no child who is blind, or disabled, or under age 21. Recovery takes place **only after** the death of both the recipient **and** the surviving spouse.

There is no recovery if there is a surviving spouse and the surviving spouse has not been a Medicaid recipient. If there is a surviving spouse who has been or is a Medicaid recipient recovery takes place only for that spouse after his/her death.

Why Estate Recovery?

- To comply with Federal law. Section 1917 of the Social Security Act makes estate recovery mandatory.
- Estate Recovery funds are returned to medical programs to help provide assistance to others in need.
- Utah State law provides for Estate Recovery in Section 26-19-13.5.

How does ORS define “estate”?

“Estate” means, regarding a deceased recipient, all real and personal property or other assets included within a decedent's estate (as defined in Utah Code, Section 75-1-201); and a decedent's augmented estate (as defined in Section 75-2-202.)

What medical costs will ORS recover?

ORS recovers costs paid by Medicaid when the recipient was age 55 or older, such as:



- Pharmacy charges.
- Doctor and Hospital charges.
- Ambulance charges.
- Insurance premiums.
- Medical equipment.
- Long-term care costs (both in-home and nursing home).
- Qualified Medicare Beneficiary expenses.
- All other costs paid under the State Plan.

How does ORS proceed with Estate Recovery?

ORS does not initiate **any** recovery until after the death of the Medicaid recipient. There is no recovery if there is a surviving spouse who has not been a Medicaid recipient.

- ORS contacts a representative of the heirs after the death of the recipient.
- ORS may record a lien against real property of a **deceased** recipient for purposes of Estate Recovery.
- ORS may file a claim with the probate court for the amount of the medical assistance provided.

Will I be required to sign a lien against my home?

No, a lien is placed on real property only **after** the death of the recipient and the recipient's spouse.

If there is no surviving spouse, a lien is placed on real property **after** the death of the Medicaid recipient.

If my home is exempt from eligibility, will it also be exempt from Estate Recovery?

No, while your home may be exempt for purposes of determining Medicaid eligibility, it will not be exempt from Estate Recovery. However, recovery takes place only after the death of both the recipient and the recipient's spouse. If there is a spouse who has not been a Medicaid recipient, there will be no recovery.

What about burial costs and other claims against the estate?

- Burial costs are paid first from the estate of the recipient.
- The state's claim for reimbursement has the same priority as reasonable and necessary medical expenses of the last illness under the Utah Uniform Probate Code.
- The state's claim is paid before other creditors and before the heirs.

Can ORS waive Estate Recovery if it would cause undue hardship?

- Recovery is deferred while there is a surviving spouse. If the spouse has not been on Medicaid, there is no recovery.
- If a child of the recipient is under 21, blind, or disabled, estate recovery is waived.
- ORS may waive recovery when the property is the sole income-producing asset and source of support for the survivors (such as a family farm or other family business, which produces a limited amount of income).
- ORS offers the opportunity to apply for an undue hardship waiver in every case.

Whom can I call for information on Estate Recovery?

- ORS Medical Section
536-8806
- Toll-Free Long Distance
1-800-821-2237

We do not discriminate because of race, color, handicap, national origin, age, sex, political beliefs, or religion.

Estate Recovery Information Bulletin

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